

§ 615.5351

12 CFR Ch. VI (1–198 Edition)

set forth in §§615.5205, 615.5330, or 615.5335 to continue to maintain those higher ratios.

(b) The Farm Credit Administration may require higher minimum capital ratios for an individual institution in view of its circumstances. For example, higher capital ratios may be appropriate for:

- (1) An institution receiving special supervisory attention;
- (2) An institution that has, or is expected to have, losses resulting in capital inadequacy;
- (3) An institution with significant exposure due to operational risk, interest rate risk, the risks from concentrations of credit, certain risks arising from other products, services, or related activities, or management's overall inability to monitor and control financial risks presented by concentrations of credit and related services activities;
- (4) An institution exposed to a high volume of, or particularly severe, problem loans;
- (5) An institution that is growing rapidly; or
- (6) An institution that may be adversely affected by the activities or condition of System institutions with which it has significant business relationships or in which it has significant investments.

§615.5351 Standards for determination of appropriate individual institution minimum capital ratios.

The appropriate minimum capital ratios for an individual institution cannot be determined solely through the application of a rigid mathematical formula or wholly objective criteria. The decision is necessarily based in part on subjective judgment grounded in Agency expertise. The factors to be considered in the determination will vary in each case and may include, for example:

- (a) The conditions or circumstances leading to the Farm Credit Administration's determination that higher minimum capital ratios are appropriate or necessary for the institution;
- (b) The exigency of those circumstances or potential problems;
- (c) The overall condition, management strength, and future prospects of

the institution and, if applicable, affiliated institutions;

(d) The institution's capital, adverse assets (including nonaccrual and nonperforming loans), allowance for loss, and other ratios compared to the ratios of its peers or industry norms; and

(e) The views of the institution's directors and senior management.

§615.5352 Procedures.

(a) *Notice.* When the Farm Credit Administration determines that minimum capital ratios greater than those set forth in §§615.5205, 615.5330, or 615.5335 are necessary or appropriate for a particular institution, the Farm Credit Administration will notify the institution in writing of the proposed minimum capital ratios and the date by which they should be reached (if applicable) and will provide an explanation of why the ratios proposed are considered necessary or appropriate for the institution.

(b) *Response.*

(1) The institution may respond to any or all of the items in the notice. The response should include any matters which the institution would have the Farm Credit Administration consider in deciding whether individual minimum capital ratios should be established for the institution, what those capital ratios should be, and, if applicable, when they should be achieved. The response must be in writing and delivered to the designated Farm Credit Administration official within 30 days after the date on which the institution received the notice. In its discretion, the Farm Credit Administration may extend the time period for good cause. The Farm Credit Administration may shorten the time period with the consent of the institution or when, in the opinion of the Farm Credit Administration, the condition of the institution so requires, provided that the institution is informed promptly of the new time period.

(2) Failure to respond within 30 days or such other time period as may be specified by the Farm Credit Administration shall constitute a waiver of any objections to the proposed minimum capital ratios or the deadline for their achievement.